

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**ANTHONY G. BUZBEE  
Plaintiff**

V.

**GAYLE DICKIE, JASON  
VANEMAN, JAMES ALLEN  
BRADLEY, WEATHERVANE  
PRODUCTIONS, INC., FORREST  
CAPITAL PARTNERS, INC.,  
FORREST CAPITAL & CO., LLC,  
FIRST CLEARING, LLC, WELLS  
FARGO BANK, N.A., WELLS  
FARGO ADVISORS, LLC AND HEY  
GIRL HEY GIRL  
ENTERTAINMENT LLC/3WAY  
FILMS**

**CIVIL NO. 4:14-CV-3431**

## **WELLS FARGO ADVISORS, LLC'S PETITION-IN-INTERPLEADER**

Defendant Wells Fargo Advisors, LLC, files this Petition-In-Interpleader, and alleges as follows:

1. This is an interpleader action of a civil nature of which this Court has jurisdiction pursuant to 28 U.S.C. § 1335, and Federal Rule of Civil Procedure 22, in that there is complete diversity between the parties and the amount in controversy is in excess of Seventy Five Thousand Dollars (\$75,000.00), exclusive of interest and costs. Wells Fargo Advisors has in its custody and possession funds in excess of the aforementioned amount. Furthermore, adverse claimants are claiming or may claim to be entitled to such funds which Wells Fargo Advisors, LLC will deposit into the registry of the Court upon receipt of an order from the Court authorizing such deposit. Venue is proper in this

district pursuant to 28 U.S.C. § 1397 in that one or more of the claimants resides in this district.

2. In addition, removal is proper because there is complete diversity between the parties pursuant to 28 U.S.C. 1332(a). Plaintiff Anthony Buzbee is a citizen of Texas. Defendants Gayle Dickie, James Allen Bradley, Hey Girl Hey Entertainment, LLC, and Wells Fargo Bank N.A. are citizens of California. Defendants Jason Van Eman and Weathervane Productions, Inc. are citizens on Nevada. Forrest Capital Partners, Inc., and Forrest Capital & Co. LLC are citizens of Florida. Defendants First Clearing, LLC, and Wells Fargo Advisors, LLC are citizens of Missouri.

3. In dispute are funds held in two accounts at Wells Fargo Advisors in the name of Defendant Forrest Capital & Co. LLC.

### **BACKGROUND FACTS**

4. On November 19, 2014, Plaintiff Buzbee filed suit in Texas state court against Wells Fargo Advisors and the other Defendants in this lawsuit alleging that Plaintiff was fraudulently induced by Defendants into wire transferring \$1.5 million into accounts controlled by Wells Fargo Advisors.<sup>1</sup> In addition, Plaintiff alleges that Defendants have wrongfully taken dominion and control over monies that belong to Plaintiff, which includes the funds held at Wells Fargo Advisors.<sup>2</sup>

5. Plaintiff also obtained a Temporary Restraining Order (“TRO”) enjoining Defendants from “moving, transferring, changing, altering, withdrawing, disposing of,

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<sup>1</sup> See Plaintiff’s First Amended Original Petition (“FAP”) at Doc. 1-2 at ¶¶ 1-34. On December 1, 2014, Plaintiff’s state court lawsuit was removed to federal court.

<sup>2</sup> See *id.* at ¶¶ 35-37.

any funds . . . maintained and controlled by . . . Defendant Wells Fargo Financial [sic] Advisors, LLC, or any other related Wells Fargo entity.”<sup>3</sup>

### **ACCOUNTS AT ISSUE**

6. The accounts at issue are two brokerage account maintained by Wells Fargo Advisors, LLC: (1) Account xxxx-x631, titled Forrest Capital & Company LLC, holding cash and securities valued at approximately \$276,554 on December 3, 2014; and (2) Account xxxx-x348, titled Forrest Capital & Company, LLC, WVP / Lats Holdings, LL, holding cash and securities valued at approximately \$812 on December 3, 2014, (collectively “the Accounts”)

### **WELLS FARGO UNCONDITIONALLY TENDERS THE ACCOUNT INTO THE REGISTRY OF THE COURT**

7. Wells Fargo Advisors is a disinterested stakeholder and has a reasonable fear of exposure to multiple liabilities due to potential adverse claims to the Accounts by Plaintiff Anthony Buzbee and Defendants Forrest Capital Partners, Inc., and Forrest Capital & Co., LLC to the same funds or property as described above. Wells Fargo unconditionally tenders the Accounts into the registry of the Court.

8. The Accounts at issue herein contain certain unliquidated securities. The securities are currently subject to market fluctuation and the above account values could vary over time due to such fluctuation. Wells Fargo Advisors will request that the Court herein enter an order instructing Wells Fargo Advisors in its handling of these unliquidated securities. Thereafter, Wells Fargo Advisors shall deposit with the Clerk of this Court funds representing the total amount held in the Accounts as of the date of the deposit.

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<sup>3</sup> See TRO at Doc. 1-1 at pages 24-26.

9. As a result of the facts and circumstances set forth above, Wells Fargo Advisors cannot resolve the conflicting demands and therefore is unable to determine to whom the amounts listed above should rightfully be delivered. As a consequence, Wells Fargo cannot disburse the funds without incurring significant risk of multifarious liability and duplicative litigation.

10. This Petition-in-Interpleader is brought in good faith and without collusion with any of the Defendants.

11. This action is necessary for Wells Fargo Advisors to avoid a multiplicity of actions, unnecessary costs, attorneys' fees, expenses of suit, which affairs constitute irreparable damage to Wells Fargo Advisors.

#### **ATTORNEYS FEES**

12. As a result of the conflicting claims or potential claims, Wells Fargo Advisors has incurred costs and continues to incur costs to establish the facts pertinent to the conflicting claims. To that end, Wells Fargo Advisors has retained the law firm of Ballard & Littlefield, LLP to provide legal services and to protect Wells Fargo Advisors interests in this lawsuit. Wells Fargo Advisors has agreed to pay Ballard & Littlefield, LLP reasonable attorneys' fees it incurs during the course of this litigation, and that the proceeds from the funds deposited with the Clerk of this Court by Wells Fargo Advisors in this action should constitute the source of funds for that reimbursement.

#### **PRAAYER FOR RELIEF**

WHEREFORE, Wells Fargo Advisors, LLC prays for judgment as follows:

- a. That Plaintiff Anthony Buzbee claims be denied in their entirety;

- b. That the Court grant the interpleader and sign an order discharging Wells Fargo Advisors, LLC from any further liability in this litigation;
- c. That the Court enjoin Plaintiff Anthony Buzbee, Forrest Capital Partner, Inc., Forrest Capital & Co., LLC, or any of the other parties in this litigation from bringing or prosecuting any other claims against Wells Fargo Advisors, LLC with respect to the Accounts or the proceeds thereof;
- d. That the Court award Wells Fargo Advisors, LLC its reasonable costs and attorneys' fees from the Accounts that are the subject of this Interpleader;
- e. That the Court grants such further relief the Court deems just and proper.

Respectfully submitted,

By: /s/ Jack D. Ballard \_\_\_\_\_

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ADVISORS, LLC

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**CERTIFICATE OF SERVICE**

This is to certify that on this December 3, 2014, this document was filed with the court's ECF system, which will provide electronic notice to all counsel of record as follows:

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*/s/ Jack D. Ballard*  
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